

DEBATE ON THE VETO.

SPEECH OF MR. RIVES.

OF VIRGINIA.

On the Resolution Respecting the President's Veto of the Bank Bill.

Delivered in the Senate Chamber, Sept. 10, 1841.

MR. RIVES. I am glad to have the opportunity of expressing my views on the subject of the veto of the Bank Bill. I have the honor to be associated with you in this debate, and I feel that it is my duty to state my views as fully as I can.

He told us, and Mr. R. that the question was this: whether the President, having returned the bill for a Fiscal Bank with his exceptions thereto, the bill was such as not to be subject to the veto of the President.

But what has been the course of the bill? I do not reproach him with it; he, no doubt, felt it necessary, in order to vindicate his own position before the country, to take the course taken by the President; and accordingly, about two-thirds of his speech, however qualified by expressions of personal kindness and respect, were taken up in a solemn arraignment of the President of the United States.

The Senator begins with the violation, by the President, of the pledge given in his inaugural address. Now, I must say, with all due deference, that the very language quoted by the honorable Senator to prove this, received, wherever I had any opportunity of hearing the expression of public opinion, a very different construction.

The President told the nation that he would give his sanction "to any constitutional measure" which might be devised by Congress for the relief of the country on the subject of the currency. He does not say any measure, but any "constitutional measure."

But the Senator from Kentucky has told us that Mr. Jefferson, in various ways, recognized the constitutionality of a National Bank; and, in illustration of this position, he tells us of an anecdote, a passage of secret history. I know not on what authority, which I must say is but little in consonance with Mr. Jefferson's life and opinions.

It represents him, who never shrank from any responsibility, as willing to sink back under the fraudulent and ignominious shelter held out by a perversion of the tea duty provision, to screen himself from the duty of asserting those glorious principles which had been the ornament of a long life.

Until the positive testimony of a responsible and unimpeachable witness to the fact itself shall be produced, I never can yield my belief to his being willing to stand by as a passive accessory to the violation of the Constitution.

Where was the occasion for his doing so? He was to go out of office in the month of March, 1809, and the bank charter would not expire till 1811; and the record will show that, after that time, he renewed repeatedly, and in the most solemn form, the expression of his fidelity to such an institution. I do not mean to cast the slightest imputation on the statement of the honorable Senator himself, so far as any knowledge of his own is concerned; but an anecdote of such a character, coming to him at second or third hand, and contradicted by the whole public life of Mr. Jefferson, he will pardon me for saying, does appear to my mind to be eminently apocryphal.

But the Senator permitted himself to refer to two public official acts of Mr. Jefferson, after his own verbal many years ago, of the argument deduced from them; I mean his signing a bill to establish a branch of the bank at New Orleans, and a bill to punish the counterfeiting of the bills of the bank.

Can I do better, in reply to this argument, than quote to the Senator his own language? I know, indeed, his reluctance to have that speech referred to. [Mr. Clay: Not at all; not at all.] I remember the signal vengeance with which one of the Senators was visited who ventured to quote it, and I therefore felt some delicacy in referring to it myself.

In the able and eloquent speech made by the honorable Senator against the constitutionality of a National Bank, in 1811, he used the following language:

"Gentlemen contend that the construction which they give to the Constitution has been acquiesced in by all parties and under all Administrations; and they rely particularly on an act which passed in 1804 for extending a branch to New Orleans, and another act of 1807 for punishing those who should forge or utter forged paper of the bank. With regard to the first law, passed no doubt upon the recommendation of the Treasury Department, I would remark that it was the extension of a branch to a Territory, over which Congress possesses power of legislation almost uncontrolled, and where, without any constitutional impediment, characters of incorporation may be granted."

There is the answer—the triumphant, conclusive answer. That branch was to be established in a Territory, where the Constitution expressly gives to Congress a general discretionary legislative authority. This bill, on the contrary, contemplates the establishment of branches within the limits of sovereign States, in regard to which Congress has none but specific powers, formally enumerated and defined. As to the other

bill to punish counterfeiters of the bank paper, what did the honorable Senator also tell us in 1811? These are his words:

"As to the other act, it was passed not less for the benefit of the community than the bank;—to prevent the ignorant and unwary from counterfeiting, and to prevent the bank from being embarrassed by the circulation of counterfeit paper. When gentlemen are claiming the advantage of the act, they are forgetting that it was passed for the benefit of the community, and not for the benefit of the bank. Were they to have remained, and how? By force?"

The honorable Senator then proceeds to bear the following testimony, as an actor in the scene, to the principles upon which both of those laws were passed:

"The acts of 1804 and 1807, relied on as precedents for chartering the paper, passed not only without any discussion, whatever of the constitutional power of Congress to establish a bank, but I venture to say, without a single member having had his attention drawn to this question. I had the honor of a seat in the Senate when the latter law passed, and probably voted for it; and I declare, with the most sincere sincerity, that I never once thought of that point, and I repeat confidently to every honorable member who was then present to say that it was not his situation."

The Senator himself thus furnishes the true explanation of the considerations on which those acts were passed—as an explanation of the benefit which he must in justice extend to Mr. Jefferson, while he claims it for himself, and has so disposed of his own argument.

I hold, therefore, that, if President Tyler had respect either to the "age views" or the "ever glorious example" of the "fathers of the great Republican school," he never could have brought his mind to the conclusion that he was in duty bound to give his official signature and approval to such a bill as we sent him.

I beg leave to refer the honorable Senator from Kentucky to another passage in the Inaugural Address of President Tyler, which he seems to have wholly overlooked, and which plainly intimates, as it appears to me, the determination of the President to make the Constitution, in his own conscientious interpretation of it, the sole rule of his conduct.

In the opening of that address he makes the following impressive reference to the solemn obligation he had taken upon himself in assuming the office of Chief Magistrate: "My earnest prayer," says he, "shall be to carry out understandingly the principles of that Constitution which I have sworn to 'protect, preserve, and defend.'" Why this emphatic reference to the Constitution, of his country, in connection with the solemn sanctions of his oath of office, if he did not intend to make it, under all circumstances, the primary and unyielding rule of his official conduct?

In the closing part of the same address he repeats, in the following language, a just admonition against the exercise of any power not clearly granted by the Constitution:

"Those (said he) who are charged with the administration of the Government should carefully abstain from all attempts to enlarge the range of powers than granted to the general Government, either by an appeal to the People for additional grants, or by doing their duty that balance which the people and statesmen who framed the Constitution designed to establish between the Federal Government and the States composing the Union."

Surely, with language like this upon his lips, and sentiments such as these in his heart, the President could not be justly expected to sign a bill which in his conscience he believed, and had so repeatedly and solemnly declared, to be contrary to the Constitution of his country.

There being, then, nothing in the opinions of the fathers and founders of the republic school to induce President Tyler, as a consistent disciple of that school for twenty-five years past, and one who had over and over expressed his conviction of the unconstitutionality of a Bank of the United States, to change that opinion, what course but that which he has pursued was left to him when the bill for such a bank was presented for his approval?

The Senator from Kentucky tells us that the opinions of the individual nominated, by the patriotic and enlightened Convention, which assembled at Harrisburg, as a candidate for the Vice Presidency, on this great and important subject, were but little thought of.

[Mr. Clay. The Senator has stated this very differently from the manner in which I stated the fact. What I said was, that the President thought his opinions more extensively known than they actually were; and that the less consequence was attached to them when they were known, because he was the candidate for the second office only.]

I acquiesce in the Senator's explanation. But was not this a most extraordinary state of things? And did it not, if it were so, bespeak on the part of that Convention a signal instance of recklessness and want of consideration? The party, he says, were intent on the one great object of an old-fashioned Bank of the United States, and they knew that a bill chartering such a bank might be dependent for its fate on the casting vote of the Vice President in this body, (as it was when it was negatived by the potential voice of George Clinton.)—Surely it would have evinced a most extraordinary want of foresight, when such issues were depending, to select a candidate for that chair without the most careful inquiry into his constitutional opinions.

Was John Tyler so insignificant a character that they knew nothing of his past history?—Where in the man, whether member or spectator, within these walls, to whom his political principles and character were not more or less familiar? If there is any one thing which has distinguished him above all other traits in his character, it is his undeviating adherence to the school of strict construction and State rights. Who has forgotten when he stood proudly on this

floor in a minority of one (on the occasion of the revenue collection bill in 1833), in vindication of what he deemed a vital doctrine of that school?

Who was ignorant of the part which had been assigned him by the Senate, as a well known but honorable and high-minded opponent of the late Bank of the United States on constitutional grounds, to conduct an investigation of the proceedings and affairs of that institution? One would think that if gentlemen acted under a due sense of their responsibility to a great and patriotic party, and if they attached a grave importance to the establishment of a National Bank, they would of course take care to select as their candidate for the Vice Presidency one on whose decision they could rely.

How was it in regard to General Harrison himself, the candidate selected for the Presidency? Was he a bank man? Was he identified with a National Bank? Not at all. He on the contrary expressly disclaimed it. He repelled the imputation as a political slander, and defied those who made it to the proof. If that had been the true issue at Harrisburg, all will concur with me when I say (and it gives me pleasure to pay a merited tribute to the high character of the gentleman from Kentucky) that he himself, and he only, would have been thought of as the candidate for the Presidency. On the contrary, it was because his party were unwilling to make that the issue before the People in the Presidential election, that the honorable and distinguished Senator from Kentucky did not obtain that civic crown, which he so well deserved, as the reward of a life devoted to what he considers the true interest and glory of his country.—But the issue was avoided as hazardous.

Let me go a little more into detail as to the opinions of General Harrison. What was his course in the other House of Congress, in 1819, when he and President Tyler were gallant competitors in the first war with the Bank of the United States? He went even further than the President did in his opposition to the Bank. John Tyler, in conformity with those conservative principles (I use the term in its broad and general sense) which form a part of the political education of every Virginian, was unwilling to revoke a solemn charter, once granted; but General Harrison, brought up as he had been in the bolder and freer school of the West, was for a summary act annulling the charter of the bank. To this vote he officially referred, as showing that he was no "Bank" or "Federal" candidate (to use his own words) for the Presidential office. In 1823, in a published address to the people of his district, he openly and distinctly avowed his opposition to a bank.—He there proclaimed himself to be a disciple of the Republican school of 1793, and explicitly declared his opinion that the Bank of the United States had been established in violation of the Constitution of the United States. In his letter of 1838 to Mr. Sherrod Williams, a distinguished member of Congress from the Senator's own State, he said he would not give his sanction to a Bank of the United States, unless, by the failure of all other expedients, it should be demonstrated to be necessary to carry on the operations of Government, and unless there should be a general and unequivocal manifestation of the will of the nation in favor of such an institution, and then only as a fiscal, and not as a commercial bank.

I am reluctant, Mr. President, to refer to any thing that I may have said or done in the common cause during the late contest, but I may be permitted to say that I, for one, with an honest conviction of the truth of the statement, and founding myself upon authentic declarations of Gen. Harrison himself, did, in a published address to my fellow citizens, represent his personal leaning and opinions to be decidedly against a Bank of the United States. Certain it is that hundreds and thousands of our countrymen voted for him without the least reference to a bank. The issue of bank or no bank was not made in the Presidential election. In the mind of the honorable Senator, no doubt, it was a prominent issue; but it was an issue his friends never ventured to propose to the country. Gen. Harrison, in the latest expression of his opinions in the Presidential canvass, (in his Dayton speech,) said that there was no grant in the Constitution of power to create a National Bank, and "it could never be constitutional save in the event that the powers granted to Congress could not be carried into effect without such an institution." That *dura necessitas* must be clearly shown, or the power to charter a bank did not exist. Yet we are now told that John Tyler, by accepting the nomination of the Convention as their candidate for the Vice Presidency, although his opinions against a National Bank had been fully and repeatedly proclaimed, and were borne on the most familiar records of the national history, incurred an unequalled obligation to sign a bill for a bank of the United States in the contingency which has made him, in the place of the lamented Harrison, President of the United States.

I am firmly impressed with the belief, Mr. President, that if General Harrison were now living, and in the same circumstances that surround President Tyler, he would, like him, never yield his sanction to the establishment of branches of such a corporation as this bill proposes within the limits of the several States, without their free and unshaken assent. In his letter to Sherrod Williams he says (adopting the language of Gen. Jackson on a similar occasion) that he believed a "Bank of the United States, competent to all the duties which may be required by the Government, might be so organized as not to infringe on

our delegated powers or the reserved rights of the States." And if, after the example of the honorable Senator from Kentucky, I may be permitted to allude to a passage of the secret political history of the times, I will state that I have been informed that the ascent of the States to branches within their limits was a favorite and fundamental idea with him, in the organization of such an institution. This information, at least, has been communicated to me by gentlemen who stood in relations of the most intimate confidence with Gen. Harrison, one of whom was a member of the committee who came to this city to perform the melancholy duty of attending the remains of the deceased President to their final resting place at North Bend.

I think it is abundantly demonstrated that there was no such issue as bank or no bank presented to the nation in the late Presidential election. And even if it was otherwise, the well known opinions of Mr. Tyler as candidate for the Vice Presidency being not only unrecanted, but, on the contrary, re-affirmed, he at least was under no pledge, express or implied, to give his sanction to an institution which he believed to be unconstitutional. The question has been raised here whether he will sanction any organization in the nature of a bank to conduct the fiscal affairs of the Government? I have no means of information on this subject which are not common to other gentlemen. From the terms of the Executive message I collect that, if some fiscal agency can be organized which, while its primary object is to conduct the financial operations of the Government, would incidentally aid in regulating the exchanges and currency of the country, without infringing on the sovereignty and reserved rights of the States, he would deem such an institution legitimate and constitutional. Such an institution, I infer from the message, would, in his view, be a very different thing from the former money lending, trading, speculating, stock jobbing Bank of the United States, ruling and riding over the institutions and sovereignty of the States.

The Senator from Kentucky infers, from the message, that President Tyler would not have sanctioned the bill had it been in a modified and restricted form, so as even to require the assent of the States.

[Mr. Clay said he must here again interpose. He felt very sure the honorable Senator did not intend to misstate any thing he had said. He did not say what the President would or would not do with regard to a bank limited to the mere power of dealing in exchange. He had thought that, in respect to such a bank, he would not have required the previous assent of the States, as the Senator now said he would. But what he had said was, that it must be manifest from the message that the President would have vetoed such a bank as was proposed by the Secretary of the Treasury.]

Mr. R. resumed. I am not authorized to say what the President would or would not have done in a hypothetical case, which has not occurred, and is not likely to occur. I conclude, from the language of the message, that, whether in reference to an exchange bank or a bank of discount, if it were intended to be pushed beyond a mere fiscal agency, and was to deal in exchanges generally by an extended operation through branches in the States, he would hold the assent of the States to be necessary. I wish it, however, to be distinctly understood that I do not say this by authority of the President. It is not necessary at this time to discuss the question what would or would not satisfy the views expressed by him.

But the Senator from Kentucky, by way of picturing to us, in bolder relief, the rebellious contumacy of the President, says that his veto of this bank bill is against the general sense of the country, against the will of Congress, and against the unanimous sentiment of his Cabinet.

[Mr. Clay. I am the last man to suppose the Senator purposes to misrepresent me; but he will recollect that, in speaking on that subject, I used the most guarded language. Three or four times I repeated that I spoke only according to the voice of rumor when I stated that the veto was against the unanimous opinion of the Cabinet.]

Mr. R. The Senator most certainly did refer to the unanimous opinion of the President's Cabinet.

[Mr. Clay. To rumor, as stating it was unanimous.]

Mr. R. To rumor, then. It is immaterial to me in what form he stated it. Observe that that Senator usually is of the delicacy due to the official relations of the President, that the Chief Magistrate, whom the Constitution makes responsible for all the acts of the Executive Department, should be overruled and controlled in his high and responsible functions by officers of his own appointment, virtually irresponsible to the people but through him? Did he suppose that officers, intended by the Constitution as aids to the President, and subordinate to him, were to reverse that relation, and erect themselves into dictators to the President? I am persuaded that those gentlemen themselves would be the last to assert any such pretension.—But as the question has arisen, I will for one say that the President, in our system, being alone responsible for his official conduct, and in a peculiar and emphatic manner for the exercise of the veto power, can legitimately acknowledge no control in those high functions but that of his own conscience.

JOHN A. WELLS, JR., Editor.

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Robert Kennedy, the President's brother, said that the House of Representatives was "the only place where the people's voice can be heard." He said that the House was the only place where the people's voice could be heard.

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As the time is limited, I request those who are disposed to support me in this enterprise, to communicate by letter.

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